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4/2/08

In re Application of:
Dahners, Laurence E.
Serial No.: 10/672,370
Filed: Sep. 25, 2003
Docket: 421/75/2
Title: MODIFICATION OF PERCUTANEOUS
INTRAFOCAL PLATE SYSTEM

Decision on Petition

This is a decision on the petition filed Mar. 18, 2008 to withdraw holding of abandonment entered Feb. 13, 2008. This petition is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office Action mailed on Jul. 13, 2007. Notice of abandonment was mailed on Feb. 13, 2008.

Petitioner asserts that a response to the Jul. 13, 2007 Office action was timely filed on Jan. 14, 2008. In response, the petitioner has enclosed a copy of the PTO stamped receipt bearing the date of Jan. 14, 2008 and copy of the originally filed communication.

37 CFR §1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:


- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In light of the evidence submitted and satisfied the provisions of 37 CFR § 1.8(b), there is no abandonment in fact. As such, the holding of abandonment is in error and is hereby vacated. Any inconvenience to the applicant is regrettable.

A three-month of extension fee and a terminal disclaimer fee are charged to the Deposit Account 50-0426.

This application is being forwarded to the Supervisory Patent Examiner in Art Unit 3733 for appropriate action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner at (571) 272-4856.

PETITION GRANTED



Frederick R. Schmidt, Director
Technology Center 3700